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12 **UNITED STATES DISTRICT COURT**
13 **DISTRICT OF NEVADA**

14 UNITED STATES OF AMERICA,
15
16 Plaintiff,
17 vs.

18 EMILE EDWARD BOUARI,
19 Defendant.

CASE NO.: 2:16-CR-00032-JCM-GWS

**REPLY TO GOVERNMENT'S RESPONSE TO
MOTION TO RECONSIDER DEFENDANT'S
PRE-TRIAL DETENTION STATUS**

Hearing: 5/1/2018
Time: 2:45 pm

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22 COMES NOW, Defendant, **EMILE EDWARD BOUARI** ("Bouari"), by and
23 through his counsel of record, Mont E. Tanner, Esq., and submits
24 this Reply to the Government's Response to Bouari's Motion to
25 Reconsider Defendant's Pre-Trial Detention Status.
26

27 This Motion and Reply are made and based upon the Statement
28 of the Law, the Statements of Facts, the Exhibits, and any

1 evidence deemed appropriate by the Court at the hearing which has
2 been scheduled for **May 1, 2018, at 2:45 pm, in LV Courtroom 3B,**
3 before the Honorable Magistrate Judge Peggy A. Leen.

4
5 **INTRODUCTORY STATEMENT**

6 In its Response to Bouari's Motion, the Government has cited
7 *United States v. Ward*, 63 F. Supp.2d 1203, 1206-07 (C.D. Cal.
8 1999); *United States v. Dillon*, 938 F.2d 1412, 1415 (1st Cir.
9 1991), and cases cited therein, for the proposition that in order
10 to reopen a detention hearing, a defendant must show "new
11 information [which] is material to release conditions regarding
12 flight or dangerousness." [Government's Response, at p.2, lines
13 13-18.]

14
15 The Government argues that Bouari fails to meet his burden;
16 Bouari respectfully disagrees. The evidence submitted to
17 Assistant United States Attorney Robert Knief, Esq. ("Knief"),
18 specifically, the allegations of Bouari being involved in a
19 criminal enterprise with international implications, was evidence
20 **not known** to Bouari at the time of his arrest, and which **could**
21 **not have been known** to him at that time. As stated in the
22 instant motion, and as of this date, counsel for Bouari has still
23 not had a satisfactory response from Knief to counsel's January
24 31, 2018 letter (sent some four months ago), regarding the
25 voluminous evidence submitted to Knief (submitted some seven
26 months ago), by Bouari's Investigator, Mr. Jeffrey Danik
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28

1 ("Danik"), a Former FBI Agent and Trial Consultant. (See, **Exh.**
2 **"C"** to the Motion.)

3 It is respectfully submitted that it is patently unjust for
4 Bouari to languish in pre-trial detention when the Government has
5 been handed exculpatory evidence detailing the Government's
6 outrageous conduct and false accusations against Bouari, and then
7 having the Government argue that, regardless of what the
8 Government did to Bouari, Bouari cannot prove that he is not a
9 flight risk or a danger to the community. It has been seven
10 months since evidence of Government wrongdoing was submitted to
11 Knief, and it appears that no review of said evidence has been
12 conducted, and yet a trial date has been set for May 21, 2018 in
13 this matter. The Government should not be permitted to have it
14 both ways, i.e., to fail to review exculpatory evidence and, at
15 the same time, argue that the defendant should not be released
16 pending trial.
17

18 **REPLY**

19
20 In its Response to the within motion, the Government also
21 states, without any proof whatsoever, that "Defendant still has
22 significant ties to multiple countries and no substantial ties to
23 the United States. Defendant still has no means of verifiable
24 legal employment." (Government's Response, at p. 4, lines 11-13.)
25 These are "boilerplate" statements for which the Government has
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1 no proof, and therefore should not carry any weight with the
2 Court. Bouari, on the other hand, has verifiable proof that:

3 (a) he has no ties to other countries, and is therefore
4 not a flight risk;

5 (b) he has verifiable employment waiting for him upon
6 his release; and

7 (c) he has strong ties to the community, and a place to
8 live, which belie any inference that he is a flight risk
9 or a danger to the community.
10

11
12 **A. Bouari Is Not a Flight Risk.**

13 Bouari is not a flight risk. Bouari is a naturalized
14 American Citizen and a successful businessman with a Masters
15 Degree from Boston University. Bouari became a United States
16 citizen by joining the United States armed services, where he
17 served admirably for several years before obtaining an honorable
18 discharge. It should also be noted that Bouari has no criminal
19 history whatsoever.

20 Bouari's United States Passport, Number 462768102, issued
21 October 30, 2009, indicates, at pages 8, 9, and 11, that Bouari
22 has only traveled outside of the United States when he made one
23 brief trip to Costa Rica in 2015. He has not traveled all around
24 the world; indeed he only traveled to one place outside of the
25 United States. Therefore, the implication of the Government's
26 statement of "*significant ties to multiple countries*" is
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1 demonstrably false, and the Government has provided no evidence
2 of its statement whatsoever.

3 Further, counsel for Bouari can surrender his passport to
4 the Court on May 1, 2018 at the hearing of this motion.

5 It is clear then, that Bouari does not have international
6 ties which would enable him to seek refuge outside of the United
7 States as the Government alleges in its Response. Without funds
8 or a passport, he would never be able to leave the country.

9 Bouari is simply not a flight risk; his only interest now is to
10 work with counsel to clear his name in this case so that he can
11 go on with his life. (A copy of Bouari's passport is attached
12 hereto as **Exhibit "A."**)

13
14 Bouari's American citizenship and how he earned it through
15 service in the United States armed services, his educational
16 background, and a review of his passport showing a history of
17 almost no travel at all outside of the United States, are three
18 of the most significant indicators that Bouari is certainly not a
19 flight risk. But there is more.

20
21 **B. Bouari Has Employment Waiting For Him.**

22 Bouari has verifiable and legal employment waiting for him.
23 As stated above, Bouari is a highly educated man, with a Masters
24 Degree from Boston University. He has had a long, successful
25 business and personal relationship (since 2001), with Mr. Steven
26 Fitch of Healthy Systems, USA, a successful weight loss company
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1 with locations throughout the West and Midwest. Bouari still
2 enjoys a close personal relationship with Mr. Fitch, and Mr.
3 Fitch is willing to vouch for Bouari's character.

4 Healthy System's website address is healthysystemsusa.com,
5 and the Las Vegas office telephone number of the company is (702)
6 748-9949. Mr. Fitch is pictured on the Healthy Systems website
7 with Dr. Oz. Bouari will be working for Mr. Fitch in telephone
8 sales for Healthy Systems, USA, here in Las Vegas. Bouari has
9 the potential to earn a substantial income from legal employment
10 with a company willing to accept him with open arms, in a field
11 where he has over a decade of experience, and the Court is
12 invited to verify this information.

13
14 This verifiable legal employment is yet another indicator of
15 Bouari's character, and shows that he is not a flight risk or a
16 danger to the community.

17
18 **C. Bouari Has Ties to the Community, a Place to**
19 **Live, and Is not a Danger to the Community.**

20 Finally, Bouari has ties to the community, by virtue of his
21 employment with Healthy Systems, USA, as detailed above, and the
22 fact that he has a place to live. Therefore he has ties to the
23 community and he is not, and will not be, a danger to the
24 community.

25 As for Bouari's residence, Bouari will be living at the
26 following address:
27
28

Reflections at the Lakes
2601 S. Grand Canyon Drive
Apartment Number: 1059
Las Vegas, Nevada 89117

This information is also verifiable, and the Government can verify Bouari's address at any time.

Bouari's ties to the community are further evidenced by his Nevada driver's license, his banking associations, *i.e.*, a TD Bank Card, issued to him by his then-employer Weight Loss Co., LLC, now Healthy Systems, USA, and his American Express Business Gold Card. (Copies of Bouari's Nevada driver's license, TD Bank Card, issued to him by his then employer Weight Loss Co., LLC, and American Express Business Gold Card are attached hereto as **Exhibit "B."**)

Other ties to the community were set forth in counsel's January 31, 2018 letter to Knief, and are repeated herein as follows: Bouari has a step-daughter, Ms. Sydney Milko, with whom he is in regular contact. Ms. Milko's mother, Kimberly Ann Milko, is a co-defendant in this matter. Other individuals who are Bouari's colleagues and friends, and who are willing to vouch for his good character are: Bouari's accountant, Ms. Lavetta Hankins, telephone number: (702) 619-111; Ms. Ciara Brown, telephone number: (702) 741-1761; and Lamone Price, telephone number: (702) 801-8822.

1 As set forth above, there is no evidence that Bouari will be
2 a danger to the community as he has no criminal record
3 whatsoever.

4
5 **D. Bouari's Request to Assist His**
6 **Counsel in Preparing for Trial.**

7 Finally, Bouari renews his request to be released from pre-
8 trial detention so that he may assist his counsel in preparing
9 for trial, which is now scheduled for May 21, 2018. There are
10 voluminous documents to review, and Bouari needs to meet with Mr.
11 Danik, his investigator and trial consultant, and other
12 witnesses, and he has very little time to do so. Bouari, who has
13 been in pre-trial detention for over two years now, wishes to do
14 nothing more than to be able to travel to the office of his
15 counsel to assist him, and to prepare for his upcoming trial.

16
17 Bouari will cooperate fully with all Orders and directives
18 of the Court, is happy to have the Court verify his employment,
19 and to verify his new residence address. Bouari will surrender
20 his Passport, and will appear at all Court ordered appointments
21 and hearings.

22 Based on the foregoing, Bouari respectfully requests that he
23 be granted pre-trial release pending the trial of this action.

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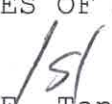
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CERTIFICATE OF SERVICE

I hereby certify that on the **26th** day of April, 2016, I electronically transmitted the foregoing **"REPLY TO GOVERNMENT'S RESPONSE TO MOTION TO RECONSIDER DEFENDANT'S PRE-TRIAL DETENTION STATUS,"** to the Clerk's office using the System for filing and transmittal of a Notice of Electronic Filing to all counsel in this matter, all counsel begin registered to receive Electronic Filing.

DATED: this 26th day of April, 2018.

LAW OFFICES OF MONT E. TANNER


/s/ Mont E. Tanner, Esq.
An employee of Mont E. Tanner